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**IN THE SUPERIOR COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

STATE OF GEORGIA,  
Plaintiff,

v.

ADELE MACLEAN, MARLON  
KAUTZ, and SAVANNAH  
PATTERSON,  
Defendants.

CASE NO.  
D0295857

**MOTION TO DISMISS DUE TO A VIOLATION OF THE DEFENDANTS’  
RIGHT TO DUE PROCESS AND CONSTITUTIONAL SPEEDY TRIAL**

The Defendants, through the undersigned, respectfully request that this Court dismiss the charges in this case because the State’s delay of time between the alleged crime and bringing the case to indictment violates their right to due process under the Fifth, Sixth, and Fourteenth Amendments of the Constitution of the United States, and the Constitution of the State of Georgia, Art. 1, § 1, ¶ I. In support of these claims, Defendants show the following:

Defendants were arrested in Dekalb County and charged with Money Laundering and “Charities Fraud” on May 31, 2023. On May 25, 2023, Dekalb County Judge Shondeana Morris signed an extensive search warrant (No. 23–148) for the residence and other buildings on the property occupied by Defendants. On August 9, 2023, a DeKalb County Superior Court Judge signed a search and seizure warrant (No. 23–064) for electronic devices belonging to Defendants.

The Attorney General (AG) indicted Defendants for the same conduct as part of an alleged vast conspiracy under Georgia's Racketeer Influenced and Corrupt Organizations (RICO) Act in Fulton County, case no. 23SC189192, on August 29, 2023. Dekalb County chose to put its case on hold, indefinitely, pending the AG's case filed in Fulton County. That indefinite hold has lasted nearly 3 years.

The allegations in the AG's Fulton County RICO indictment are entirely duplicative of the allegations from this DeKalb County case. Over the past two and a half years, the AG's RICO case has progressed through multiple administrative hearings, discovery exchanges, ever-changing deadlines, and two different judges. On September 9, 2025, Judge Kevin Farmer orally dismissed the AG's Fulton County RICO indictment. Judge Farmer entered his written Order of Dismissal on December 30, 2025, formally dismissing the RICO case against Defendants. The AG secured a certificate of immediate review, and eventually filed a Notice of Appeal on February 23, 2026, pertaining to Georgia Court of Appeals case A26I0120.

Notably, Defendants face the same charges of money laundering in this case which the AG elected to pursue instead in Fulton County, but which the AG nolle pros-ed in Fulton County on September 17, 2024. The AG has since made no attempt whatsoever to indict Defendants on these charges in this county or to reindict in Fulton County.

Meanwhile, the Atlanta Police Training Center (“Cop City”) facility has been built and opened on top of the original charged crime scene. Most local evidence underlying these charges has literally been bulldozed, buried, lost, and permanently destroyed in the construction process.

**I. LEGAL DISCUSSION UNDER THE FIFTH AND FOURTEENTH AMENDMENT CLAIMS**

Under Georgia Law, a defendant may prevail on a claim that the State violated their due process rights under the Fifth and Fourteenth Amendments of the United States Constitution (and the Constitution of the State of Georgia, Art. 1, § 1, ¶ I) because of the delay between the time of the alleged crime and the time of the indictment when the defendant proves:

1. that the delay caused actual prejudice to their defense, and
2. that the delay result from deliberate prosecutorial action to give the State a tactical advantage.

*Bunn v. State*, 284 Ga. 410, 411 (2008).

**A. Actual Prejudice to the Defendant**

Defendants and their defense have been actually prejudiced due to the passage of time and loss of evidence. The AG’s Office is prosecuting Defendants for the identical conduct in another indictment, forcing a defense of this case by proxy.

Moreover, essential physical evidence has been lost. The State disclaims responsibility for any loss of evidence occurring on private property and suggests

that Defendants' remedy against destruction of evidence is *ex post facto* cross-examination of police at a jury trial. This suggestion, however, is not a remedy.

In addition, this unindicted case has caused negative publicity against Defendants and Defendants' work and charitable organizations, yet because there has been no indictment, there is no avenue for Defendants to challenge the allegations in this case or file speedy trial claims. The personal and professional consequences that Defendants have faced as a result of this indefinite charge, without a legal forum in which it may be timely challenged, are forms of actual prejudice to Defendants and have very real and direct impacts on their lives.

In addition to the actual legal prejudice to Defendants in this case, Defendants suffer continuing personal and professional adversity. Defendants Marlon Kautz, Adele MacLean, and Savannah Patterson all live and work together, and their personal and professional lives are interdependent upon each other. The effects of these charges on one of them affect all three and impacts each of them as individuals.

These effects include:

- Repetitive background checks that stifle their ability in career and employment.
- The inability to serve on other nonprofit organizations due to pending fraud charges.
- Personal bank accounts and credit cards have been closed.
- Defendants' nonprofit Network for Strong Communities has been kicked off fundraising platforms and lost thousands of donors.
- The payment platform Stripe discontinued support for Atlanta Solidarity Fund (Defendants' parent nonprofit) donations, suddenly stopping

hundreds of recurring donations, and losing the organization five-figures in monthly income.

- Repeated refusal by banks to hold the Defendants' non-profits' funds (one bank cited "derogatory information" from pending cases).
- Defendants are required to select "facing fraud charges" on legal paperwork for their nonprofits, further hindering their ability to organize and support the communities that they serve.
- Mx. MacLean worked with a disaster relief nonprofit to get warehouses to donate space for disaster relief supplies. The warehouse agreed but backed out when they learned of Defendants' charges. The nonprofit refused to work with them further.
- Facing a pending felony case in Dekalb means any small violation, even a jaywalking violation, could result in a bond revocation, meaning more jail time.
- Defendants are unable to speak about the facts of the case while charges are pending, which inhibits their ability to protest or advocate for environmental justice and government accountability.
- Personal possessions—many of them valuable and important documents (such as the personal journals, medical information, and one defendant's letters from a deceased parent—have been seized and held since the raid on our home. Pending charges prevent Defendants from getting these items returned.

Further, the continuation of the charges has a chilling effect on political dissent—likely by design. Others, seeing the hardships Defendants continue to face, are intimidated from speaking out against the government for fear of facing similar years of hardship just while *waiting* for formal charges.

### **B. Purposeful Delay for Tactical Advantage**

The AG's Office and DeKalb County have delayed this matter to gain a tactical advantage over the Defense. The State is prosecuting Defendants in another county based on duplicative factual allegations. As reflected in the Fulton County

RICO indictment, the investigation of these factual allegations against Defendants has long since ended, yet neither DeKalb County nor the AG have indicted or even attempted to indict Defendants in this case in 34 months.

By indicting Defendants in Fulton County under the same alleged conduct as in this case, the AG has clearly shown that its prosecutorial delay in DeKalb County is intentional and strategic. Because the investigation ended long ago, the State cannot argue that this delay is “caused by an ongoing investigation [which] does not result in a violation of due process.” *Manley v. State*, 281 Ga. 466, 468 (2007) (citations omitted). Instead, the reason for the delay is calculated: the AG employs the power of the State to disrupt Defendants’ lives and work with extreme charges to quash political dissent and maintain leverage to intimidate codefendants into cooperation. The AG has brought explosive charges and has opposed bond absent cooperation. The AG now keeps these DeKalb County charges sitting as leverage after all the co-defendants have been released in to push them into cooperation for the State’s identical indicted cases in Fulton County.

After the DeKalb County District Attorney’s Office withdrew from this matter, the AG immediately appeared in the prosecution against Defendants and others, strongly implying a readiness to proceed. *See Manley*, 281 Ga. at 468 (change to special prosecutors is evidence of *preventing* delay and willingness to advance the

case). Yet, closing in on three years later, Defendants remain unindicted in DeKalb County.

Finally, venue for the conduct charged in this case and indicted in the Fulton County case lies properly only in DeKalb County. Yet the AG *chose* to indict only in Fulton County based on a theory of out-of-county overt acts by alleged codefendants under the RICO statute. The AG now appeals the dismissal in Fulton County instead of indicting this case in DeKalb County. The delay since the arrest of Defendants has resulted solely because of the State's deliberate decision not to seek an indictment in this county, while doing so promptly and with no issue in another county.

This Court has already dismissed the charges of at least one charged codefendant in the AG's Fulton County RICO case on the same legal grounds, same legal theory, and nearly identical factual showings as for this Defendant. *See Order, State of Georgia vs. James Marsicano, aka James Mariscana, case no. D0293186, August 14, 2025.*

## **II. LEGAL DISCUSSION UNDER SIXTH AMENDMENT CLAIMS**

DeKalb County and the AG's delay further violated Defendants' Sixth Amendment constitutional right to a speedy trial. Countless decisions from the Georgia appellate courts have set forth the framework for the analysis of a Sixth Amendment Constitutional Speedy Trial claim. *See, e.g., State v. Lattimore, 287 Ga.*

505 (2010); *Ruffin v. State*, 284 Ga. 52 (2008); *State v. Ivory*, 304 Ga. App. 859 (2010). Both the Sixth Amendment of the United States Constitution and the Georgia Constitution provide that a criminal defendant shall have the right to a speedy trial.” *Labbee v. State*, 362 Ga. App. 558, 561 (2022). Further, it is well settled that “a defendant may assert his constitutional right to a speedy trial at any time after he is arrested[.]” *State v. Pickett*, 288 Ga. 674, 676 (2011).

“We have been clear that when considering constitutional speedy trial claims, courts *must* conduct the two-part test as delineated in the United States Supreme Court's decisions in *Barker v. Wingo*, 407 U. S. 514 (1972), and *Doggett v. United States*, 505 U. S. 647 (1992).” *Padilla-Garcia v. State*, 369 Ga. App. 244, 245 (2023). The analysis has two stages:

First, the court must determine whether the interval from the accused’s arrest, indictment, or other formal accusation to the trial is sufficiently long to be considered ‘presumptively prejudicial.’ If not, the speedy trial claim fails at the threshold. If, however, the delay has passed the point of presumptive prejudice, the court must proceed to the second step of the *Barker-Doggett* analysis, which requires the application of a delicate, context-sensitive, four-factor balancing test to determine whether the accused has been deprived of the right to a speedy trial.

*Ruffin*, 284 Ga. at 55.

There are four considerations that always figure into the second stage of the *Barker-Doggett* analysis. These factors do not constitute an exhaustive list and “must be considered together with such other circumstances as may be relevant” given the animating principles behind the speedy trial guarantee. These four factors are:

- (1) Whether the delay was uncommonly long;
- (2) Who is to blame for the delay;
- (3) Whether, in due course, the defendant asserted his right to a speedy trial;
- (4) Whether the defendant suffered prejudice as a result of the delay.

#### **A. Presumptive Prejudice**

There is no dispute that a nearly 3-year delay in bringing this case to trial is presumptively prejudicial and triggers the *Barker v. Wingo* four-factor analysis. The Supreme Court of Georgia has held that “[f]or serious crimes such as murder that do not involve unusual complexities . . . one year generally marks the point at which expected deliberateness in the prosecution of a criminal matter turns into presumptively prejudicial delay.” *Ruffin*, 284 Ga. at 55. In *Ruffin*, the total pre-trial delay was just over two years. There, the court found “that this case long ago crossed the presumptive prejudice threshold.” *Id.* The nearly 3-year delay between Defendants’ arrest and the date of this motion in the instant case clearly meets the presumptive prejudice threshold.

#### **B. Evaluating The *Barker v. Wingo* Factors**

In addressing the four factors used in the second stage of the analysis, the Supreme Court noted that the factors “have no talismanic qualities; courts must still engage in a difficult and sensitive balancing process.” *Barker*, 407 U.S. at 533. However, because courts are dealing with a fundamental right of the accused, this process must be carried out with full recognition that the accused’s interest in a speedy trial is specifically affirmed in the Constitution.

### *1. Length of Delay*

The nearly 3-year delay in this case has been unusually long. This factor weighs strongly in favor of Defendants. A delay of one year is presumptively prejudicial. *Huerta-Ramirez v. State*, 357 Ga. App. 123, 126 (2020); *Higgins v. State*, 308 Ga. App. 257, 257 (2011).

The Supreme Court stressed in *Doggett* that once the defendant makes the presumptively prejudicial showing, “the court must then consider, as one factor among several, the extent to which the delay stretches beyond the bare minimum needed to trigger judicial examination of the claim. This latter enquiry is significant to the speedy trial analysis because . . . the presumption that pretrial delay has prejudiced the accused intensifies over time.” *Doggett*, 505 U.S. at 652 (internal citations omitted). *See also State v. Sutton*, 273 Ga. App. 84 (2005) (finding that a 7 year delay between indictment and trial was constitutionally impermissible and that, although there was no cause for the delay and even in the absence of a specific showing of prejudice and a failure of the defendant to assert his rights earlier, the inordinate delay in this case supported the trial court’s decision to dismiss the indictment); *State v. Johnson*, 274 Ga. 511, 555 S.E. 2d 710 (2001). Also, in calculating the length of time, though the Sixth Amendment right to a Speedy Trial begins on the date of arrest, this does not mean that the court should ignore the period of time that elapsed between the alleged crime and the indictment or arrest. That

roughly 4-month period must be considered in evaluating the prejudice that befalls the Defendants as a result of the state's delay in bringing this case to trial.

## ***2. Blame for the Delay***

“The weight [that is] assigned to official negligence compounds over time, as the presumption of evidentiary prejudice grows. Thus, [the court's] toleration of such negligence varies inversely with its protractedness.” *Grizzard v. State*, 301 Ga. App. 613 (2009). There is logical reason why DeKalb County continues to delay the instant case and fails to act. The Defendants have never requested a continuance or a stay and are limited in what can be filed due to the inaction of the AG and DeKalb County. All delays have been on the part of the prosecution.

## ***3. Assertion of the Right To Speedy Trial***

As DeKalb County has still failed to file an indictment in the instant case in the past three years, Defendants have not had the opportunity to file a statutory speedy trial demand. However, Defendants assert this right in the wake of the dismissal of the AG's charges and in the lack of any effort or action by the DeKalb County DA's office.

## ***4. Prejudice***

There are several issues related to this factor that need to be addressed. First, the Supreme Court in *Doggett* held that at some point, delay in bringing a case to trial can be so long that prejudice can be presumed due to the inevitable fading of

memories. In *Doggett* an eight year delay was held to be presumptively prejudicial. The *Doggett* Court wrote, “*Barker* explicitly recognized that impairment of one’s defense is the most difficult for speedy trial prejudice to prove because time’s erosion of exculpatory evidence and testimony can rarely be shown. . . . Thus, we generally have to recognize that excessive delay has a tendency to compromise the reliability of trials in ways that neither party can prove, or for that matter, identify.” *Doggett*, 505 U.S. at 655.

Second, in measuring the length of delay, though the period between the commission of the crime and the date of the initiation of criminal proceedings is not technically counted as part of the Sixth Amendment Speedy Trial calculation, the delay in arresting Defendant and indicting this case is still a component of the prejudice analysis. In other words, there is no Sixth Amendment right to a speedy indictment (the statute of limitations and the Due Process Clause address that concern), but in measuring the prejudice caused by a delay in bringing a case to trial after indictment, the pre-indictment delay need not be ignored. *Griffin v. State*, 282 Ga. 215 (2007) (overruled on other grounds). In the instant case, the time elapsed from the date of the incident to the date of this motion is nearly three and one-half years.

Third, even assuming that some of the Defense witnesses are available, the location of the alleged crime has been leveled and no longer exists. Evidence of the

entire scene is forever gone and, with it, vital evidence. By way of example, the Defense has no way to effectively demonstrate to a jury the extensive and lengthy hike through dense foliage that protestors allegedly journeyed to arrive at the scene and the extreme remoteness from an initial meeting place to the location where the alleged criminal activity occurred.

### CONCLUSION

Because the State's delays in seeking indictment caused substantial, actual prejudice to Defendants, and because those delays resulted from the State's decisions regarding litigation that give the State an advantage over the Defendants, and the State's reckless disregard of the probable prejudicial impact those delays would cause to Defendants, Defendants request that this Court grant the following relief:

1. Dismiss the pending charges in this case.
2. Any other relief which this Court deems appropriate.

This, the 1st day of April, 2026.

GARLAND, SAMUEL & LOEB, P.C.

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**CERTIFICATE OF SERVICE**

I hereby certify that I have filed this MOTION TO DISMISS on this day using the Court's Odyssey e-file system which will e-serve copies to all counsel of record.

This, the 1st day of April, 2026.

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